

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION  
NO 7:18-CR-4-1H

UNITED STATES OF AMERICA, )  
                                )  
                                )  
v.                            )  
                                )  
LEOPOLDO GARCIA-ALTAMIRANO, )                         **ORDER**  
                                )  
                                )  
Defendant.                  )  
                                )

This matter is before the court on defendant's motion to suppress [DE #36]. The government responded in opposition to the motion to suppress [DE #37]. The matter was referred to United States Magistrate Judge Kimberly A. Swank for entry of a memorandum and recommendation (M&R). Following an evidentiary hearing, Judge Swank entered an M&R on May 14, 2019, recommending denial of the motion. The defendant filed objections [DE #75] on July 16, 2019. This matter is ripe for adjudication.

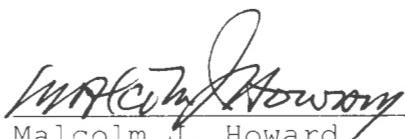
Under Rule 59(b) of the Federal Rules of Criminal Procedure, a district judge must consider de novo any portion of the M&R to which objection is properly made.

Defendant raises six factual objections to the M&R and addresses the Fourth and Fifth Amendment arguments. At their core, all these objections are concerned with the magistrate judge's fact finding, and more specifically, with what defendant perceives as the magistrate judge not properly utilizing the bodycam

recording in its fact findings. The court has carefully reviewed this matter and finds these objections to be without merit. The court adopts the facts found by the magistrate judge.

This court, having conducted a de novo review of the M&R and other documents of record, finds the recommendations of the magistrate judge are in accordance with the law and should be approved. Accordingly, the court hereby adopts the recommendations of the magistrate judge as its own; and, for the reasons stated therein, the defendant's motion to suppress [DE #36] is hereby DENIED.

This 8<sup>th</sup> day of August 2019.

  
\_\_\_\_\_  
Malcolm J. Howard  
Senior United States District Judge

At Greenville, NC  
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